



State of Utah

Department of  
Natural Resources

ROBERT L. MORGAN  
*Executive Director*

Division of  
Oil, Gas & Mining

LOWELL P. BRAXTON  
*Division Director*

OLENE S. WALKER  
*Governor*

GAYLE F. McKEACHNIE  
*Lieutenant Governor*

April 20, 2004

CERTIFIED RETURN RECEIPT  
7099 3400 0016 8896 0297

Mr. Keith MacKay  
State Stone  
4640 South 300 West  
Murray, Utah 84107

Subject: **Modified** Notice of Noncompliance, State Stone, Unpermitted  
Quarries, M/055/021, Wayne County, Utah

Dear Mr. MacKay:

On March 4, 2004, the Division issued you a Notice of Noncompliance for your quarrying operations in Section 20, Township 29 South, Range 5 East, SLBM, near Torrey in Wayne County, Utah. During a site inspection on April 6, 2004, you notified us that State Stone is also the operator of another quarry (west site) located about one mile west of the quarry that was the subject of the March 4 Notice of Noncompliance (east site). The west site is in Section 13, Township 29 South, Range 4 East, SLBM.

During the April 6, 2004, inspection, you indicated you would be interested in reclaiming a portion of the east site quarry, and GPS readings were taken delineating the area you feel is still necessary for continued quarrying operations.

These changes affect the March 4, 2004, Notice of Noncompliance. The Division hereby modifies the notice as follows:

**Findings of Non-Compliance (unchanged):**

1. State Stone is conducting large mining operations prior to filing a Notice of Intention to Conduct Large Mining Operations. Rule R647-4-101 requires approval by the Division of a Notice of Intention to Commence



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Large Mining Operations (FORM MR-LMO) exceeding five surface acres, before mining operations begin.

2. Rule R647-4-113 requires an operator to post surety with the Division to ensure adequate reclamation is performed, before mining-related disturbances are created. State Stone has not filed a reclamation surety.

**Location of Non-Compliance:**

Disturbances associated with State Stone's quarries are located in the SW¼ NW¼ of Section 20, Township 29 South, Range 5 East, and in the W½ NW¼ of Section 13, Township 29 South, Range 4 East, SLBM, Wayne County, Utah.

**Mitigation Requirements:**

1. **Within 60 days of receipt of this letter, State Stone must post a transitional reclamation surety in the amount of \$37,280 (2.43 acres in the west quarry plus 6.89 acres in the east quarry X \$4000/acre).** This *transitional* surety will remain in place until a Notice of Intention to Commence Large Mining Operations is submitted and approved. The surety amount will be adjusted accordingly upon Division approval of the Notice of Intention to Commence Large Mining Operations.
2. As an alternative to the full bonding requirements listed in item 1, State Stone may perform reclamation grading on portions of the disturbed areas that are no longer needed for ongoing operations. These areas could be excluded from full bonding, but a bond would still be needed to cover the cost for reseeding should the initial seeding fail. If you decide to pursue this option, you must notify us in writing within 10 days of your receipt of this notice. The initial recontouring work must be completed within 30 days of receipt of this letter.

The site would be subsequently inspected by the Division and a new GPS survey conducted to determine a new disturbed area acreage figure. You must also mark with T-posts (or markers of similar effectiveness), the areas to be retained as part of the active disturbed area. The regraded areas must be roughened and seeded in the fall of 2004. Failure to fulfill these requirements within the assigned time frames would result in the reinstatement of complete bonding requirements for these areas. Based on



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the GPS survey completed April 6, 2004 (which outlines about 3.18 acres of disturbance that could be reclaimed), and the adjusted acreage figure (3.96 acres) derived from this survey for the east quarry, the anticipated transitional bond amount would be about \$27,000.

3. Within 90 days of your receipt of this letter, State Stone must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and submit the required \$500 permit fee for a large mine under 50 acres.
4. Until the *transitional* surety is posted, the permit fee has been paid, and a technically adequate Notice of Intention to Commence Large Mining Operations has been filed, State Stone ***must cease all mining operations and removal of material from these sites.***

**Penalties for Failure to Comply (unchanged):**

1. If State Stone fails to resolve this Notice of Non-compliance within the timeframes set forth in this letter, the Division may file a formal Notice of Agency Action. This enforcement action could require the operator to appear at an informal hearing before the Division Director, or at a formal hearing before the Board of Oil, Gas and Mining. Following public notice and formal hearing, the Board may issue an abatement or compliance Order that may require immediate suspension or termination of all mining operations until the plan is approved; immediate reclamation of the site; and/or other lawful requirements as authorized under the Act.
2. The Board may also ask the County prosecutor or State Attorney General to bring suit against the operator to enforce its Orders and to seek assessment of appropriate penalties, not to exceed \$10,000 for each knowing or willful violation of the Act.

**Appeal Provisions:**

If you wish to contest this Notice of Non-Compliance, you may contact the Division to schedule an informal meeting with the Associate Director of Mining, Mary Ann Wright, and members of the Minerals Program staff. To contest this Notice and arrange an informal meeting, please contact Vickie Southwick, Executive Secretary, at (801) 538-5304, within 10 days of your receipt of this notice.

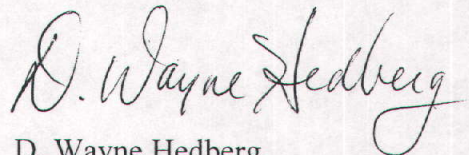


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You also have the right to appeal the Division's decision on this matter by requesting an *informal administrative hearing* before the Division Director, Lowell Braxton, or by requesting a *formal hearing* before the Board of Oil, Gas and Mining. **A written appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter.** The written appeal must state: 1) your intent to appeal; and, 2) the specific findings or requirements you wish to appeal. An Informal Hearing is conducted under the provisions of the Administrative Rules R647-5-102 – 106 and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended). If an informal meeting or a hearing is not requested, the Division's decision will become final.

If you have any questions regarding the requirements of this letter, please contact me at (801) 538-5286, or Paul Baker, permit lead, at 538-5261. Thank you for your immediate attention to this matter.

Sincerely,



D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

DWH:PBB:jb  
Enclosure: 3/18/2004 Inspection Report  
cc: Buzz Rakow, Hanksville BLM  
Mary Ann Wright, Associate Director  
Vickie Southwick, OGM  
O:\M055-Wayne\M0550021-MacKay\final\modnoncomp-04202004.doc

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KEITH MACKAY  
STATE STONE  
4640 S 300 W  
MURRAY UT 84107

JB DOGM M/055/021 4/20/04

2. Article Number

(Transfer from service label) 7099 3400 0016 8896 0297

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X***Debbie Mackay*☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☒ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



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U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**

*(Domestic Mail Only; No Insurance Coverage Provided)*

JB DOGM M/055/021 4/20/04

Postage \$

Certified Fee

Return Receipt Fee  
(Endorsement Required)

Restricted Delivery Fee  
(Endorsement Required)

Total Postage & Fees \$

Postmark  
Here

**Recipient's Name** (Please Print Clearly) (to be completed by mailer)

KEITH MCKAY - STATE STONE

Street, Apt. No.; or PO Box No.

4640 S3300 W

City, State, ZIP+4

MURRAY UT 84107

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